

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, ARIZONA, AUTHORIZING THE SALE, EXECUTION AND DELIVERY OF CITY OF MESA, ARIZONA, UTILITY SYSTEMS REVENUE OBLIGATIONS, SERIES 2021, TO FINANCE THE COSTS OF ACQUIRING IMPROVEMENTS TO THE CITY'S UTILITY SYSTEMS AND TO PAY RELATED COSTS OF DELIVERY; APPROVING THE FORM AND AUTHORIZING THE COMPLETION, SIGNING AND DELIVERY OF AN INSTALLMENT PURCHASE AGREEMENT, A TRUST AGREEMENT, A PURCHASE CONTRACT AND A CONTINUING DISCLOSURE CERTIFICATE IN CONNECTION THEREWITH; PROVIDING FOR THE CITY TO PAY INSTALLMENT PAYMENTS FROM PLEDGED REVENUES OF THE CITY'S UTILITY SYSTEMS TO PURCHASE THE IMPROVEMENTS; APPOINTING A TRUSTEE FOR THE SERIES 2021 OBLIGATIONS; DELEGATING THE AUTHORITY TO APPROVE CERTAIN MATTERS WITH RESPECT TO THE SERIES 2021 OBLIGATIONS; DELEGATING THE AUTHORITY TO APPROVE AND DEEM FINAL A FORM OF OFFICIAL STATEMENT; AND RATIFYING ALL ACTIONS TAKEN AND TO BE TAKEN WITH RESPECT TO THE SERIES 2021 OBLIGATIONS IN FURTHERANCE OF THIS RESOLUTION.

WHEREAS, pursuant to Title 9, Chapter 5, Article 2 of the Arizona Revised Statutes, as amended, the City of Mesa, Arizona (the "*City*"), is authorized to construct, purchase, acquire, own and maintain its water, wastewater, electrical, natural gas and solid waste systems (collectively, the "*System*"); and

WHEREAS, pursuant to Resolution No. 6362, passed and adopted by the City Council of the City on July 29, 1991 (as thereafter amended and supplemented, the "*Master Bond Resolution*"), and Title 9, Chapter 5, Article 3 of the Arizona Revised Statutes, as amended, the City has authorized the sale and issuance of various series of its utility systems revenue bonds and utility systems revenue refunding bonds, and has authorized loans with the Water Infrastructure Finance Authority of Arizona (collectively, the "*Utility Bonds*"); and

WHEREAS, for purposes of making improvements, additions, extensions, replacements or repairs to the System, the Master Bond Resolution provides for the application of certain revenues of the System to the payment of obligations junior in lien to the Utility Bonds; and

WHEREAS, the City Council hereby finds and determines that it is desirable and necessary and in the best interests of the City that obligations be incurred and sold, and the proceeds thereof be used to construct, purchase, acquire, own and maintain improvements, additions, extensions, replacements or repairs to the System (the "*Series 2021 Projects*"); and

WHEREAS, therefore, the City Council has determined to cause the execution and delivery of an Installment Purchase Agreement, to be dated as of the first day of the month in which the hereinafter described Series 2021 Obligations are dated (the "*Installment Purchase*");

Agreement”), in substantially the form now on file with the City Clerk, by which the City will agree to purchase the Series 2021 Projects; and

WHEREAS, the acquisition of the Series 2021 Projects will be financed through the sale and execution and delivery of securities representing proportionate interests (the “*Series 2021 Obligations*”) in the Installment Purchase Agreement pursuant to, and secured by, a Trust Agreement, to be dated as of the date of the Installment Purchase Agreement (the “*Trust Agreement*”), by and between the City and UMB Bank, n.a., as trustee (including any successor thereto, the “*Trustee*”), in substantially the form now on file with the City Clerk; and

WHEREAS, the firm of Hilltop Securities Inc. will serve as the City’s financial advisor (the “*Financial Advisor*”) with respect to the Series 2021 Obligations; and

WHEREAS, the City will receive a proposal for the purchase of the Series 2021 Obligations from Stifel, Nicolaus & Company, Incorporated (the “*Underwriter*”), in the form of a purchase contract in substantially the form now on file with the City Clerk (the “*Purchase Contract*”), and the City Council desires that the Series 2021 Obligations be sold through negotiation to the Underwriter on such terms as may hereafter be approved by the Deputy City Manager and Chief Financial Officer of the City and agreed to by the Underwriter; and

WHEREAS, the Underwriter is required to comply with Rule 15c2-12(b)(5) of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “*Rule*”), in connection with selling the Series 2021 Obligations as an underwriter, and the City will execute and deliver a continuing disclosure certificate, to be dated the date of the Series 2021 Obligations (the “*Continuing Disclosure Certificate*”), with respect to the Series 2021 Obligations, in substantially the form now on file with the City Clerk; and

WHEREAS, by this Resolution the City Council authorizes the execution and delivery of the Installment Purchase Agreement, the Trust Agreement and the Purchase Contract, the execution and delivery of the Series 2021 Obligations by the Trustee, and the sale and delivery of the Series 2021 Obligations to the Underwriter in accordance with the Purchase Contract; and

WHEREAS, the forms of the following documents are on file with the City Clerk and have been made available to the City Council of the City:

1. the Installment Purchase Agreement;
2. the Trust Agreement;
3. the Continuing Disclosure Certificate;
4. the Purchase Contract; and
5. the proposed preliminary form of the Official Statement relating to the Series 2021 Obligations (the “*Preliminary Official Statement*”); and

WHEREAS, the City has the requisite power and authority to execute and deliver the Installment Purchase Agreement and to cause the sale, execution and delivery of the Series 2021 Obligations, and all acts, conditions and things required by the Constitution and laws of the State of Arizona (the “*State*”) and the requirements of the City to happen, exist and be performed precedent to and in the adoption of this Resolution have happened, exist and been performed as so required to make the Installment Purchase Agreement a valid and binding limited, special obligation of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1. Authorization and Execution and Delivery of Documents and Series 2021 Obligations.

A. For the purpose of providing funds to finance the Series 2021 Projects and to pay the delivery costs related to the sale, execution and delivery of the Series 2021 Obligations, the Series 2021 Obligations shall be sold, executed and delivered as one or more series of obligations. The Series 2021 Obligations shall be dated the date of their initial authentication and delivery, shall be executed and delivered in such form and denominations, shall be payable as to interest and principal on such dates, shall be executed in such manner and shall have such other provisions including, without limitation, provisions with respect to redemption prior to maturity, all as is set forth in the form of the Trust Agreement and the Purchase Contract. The series designation of the Series 2021 Obligations may change if the Series 2021 Obligations are not sold in calendar year 2021. The Series 2021 Obligations shall include such additions, deletions and modifications consistent with this Resolution as shall be approved by the officers of the Trustee, and such approval shall be evidenced by the execution and delivery of the Series 2021 Obligations by the Trustee.

B. The Mayor, or if the Mayor is not available any member of the City Council, the City Manager, the Deputy City Manager and Chief Financial Officer of the City, and the designees of any of them (collectively, the “*Authorized Representatives*”) are each hereby authorized and directed to determine on behalf of the City and then to take any action, make any modification of documents, enter into any agreements, make any elections or certifications and pay any delivery costs necessary to provide for the sale, execution and delivery of the Series 2021 Obligations, and to comply with the requirements of the Internal Revenue Code of 1986, as amended (the “*Tax Code*”), and the terms of the Series 2021 Obligations and any agreements related thereto, including causing the Series 2021 Obligations to be executed and delivered in multiple series, to the extent consistent with this Resolution.

C. The aggregate principal amount of the Series 2021 Obligations shall not exceed the amount sufficient to provide up to \$16,765,000 to finance the acquisition of the Series 2021 Projects and to pay the delivery costs of the Series 2021 Obligations, as provided in the Purchase Contract. The Series 2021 Obligations will mature on July 1 in some or all of the years 2021 through 2046, inclusive, and will bear interest from their date of delivery to maturity or redemption prior to maturity, all as is set forth in the Purchase Contract, and provided that the

Series 2021 Obligations, in the aggregate, shall have a yield, as calculated for federal income tax purposes, not exceeding six percent (6.00%) per annum.

D. The Authorized Representatives are each hereby authorized, consistent with this Resolution, to execute, and the City Clerk is hereby authorized to attest, as applicable, the Installment Purchase Agreement, the Trust Agreement, the Purchase Contract and the Continuing Disclosure Certificate, which are hereby approved, with such additions, deletions and modifications as are consistent with this Resolution and as shall be approved by those Authorized Representatives executing and delivering the same on behalf of the City, and such approval shall be evidenced by the execution and delivery thereof.

E. The Trustee is hereby authorized and directed to execute and deliver the Series 2021 Obligations, the Installment Purchase Agreement and the Trust Agreement to accomplish the purposes in this Resolution.

F. The Authorized Representatives, consistent with this Resolution, are each hereby authorized and directed to:

(i) cause the sale, execution and delivery of the Series 2021 Obligations and are hereby delegated the authority to complete any information missing in, or necessary for the consummation of the transactions contemplated by, the Installment Purchase Agreement, the Trust Agreement, the Purchase Contract and the Continuing Disclosure Certificate;

(ii) select, and execute and deliver contracts with, appropriate professionals including, without limitation, the Financial Advisor and outside counsel to the City, to provide professional services related to the sale, execution and delivery of the Series 2021 Obligations, and to provide for such other matters including, without limitation, credit enhancement, as are necessary in order to accomplish the purposes of this Resolution; and

(iii) execute and deliver any instruments or documents necessary in connection with the purchase of any credit enhancement, including providing for the repayment of amounts advanced for credit enhancement; provided, however, that any determination to purchase credit enhancement shall be determined by the Deputy City Manager and Chief Financial Officer, upon consultation with the Financial Advisor, to be appropriate and beneficial to the City.

The fees, costs and expenses with respect to the foregoing shall be paid from proceeds of the sale of the Series 2021 Obligations or any other legally available moneys of the City. The Deputy City Manager and Chief Financial Officer of the City is hereby authorized and directed to receive and expend such funds as necessary to accomplish the purposes of this Resolution, including payment of the installment payments due from the City under the Installment Purchase Agreement related to debt service on the Series 2021 Obligations.

Section 2. Purchase Contract. If the terms of the Series 2021 Obligations comply with this Resolution, the Authorized Representatives are each hereby authorized to

execute and deliver, and, as applicable, attest, the Purchase Contract in accordance with Section 1 hereof. The Series 2021 Obligations shall be prepared, executed and delivered upon payment therefor to, or upon the order of, the Underwriter in accordance with the Trust Agreement and the Purchase Contract.

Section 3. Limited, Special Obligation; Pledge of System Revenues Junior in Lien to Utility Bonds. The Installment Purchase Agreement shall be a limited, special obligation of the City, payable only from certain revenues of the System pursuant to, and as described in, the Installment Purchase Agreement (the “*Pledged Revenues*”), and shall never constitute a general obligation of the City or a pledge of *ad valorem* property taxes by the City. The Series 2021 Obligations shall not constitute an indebtedness or general obligation of the City within the meaning of any State Constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the City or be a charge against the City’s general credit or a charge against the general credit or the taxing powers of the State or any political subdivision thereof. The Installment Purchase Agreement shall be secured by a pledge of and lien on Pledged Revenues of the System on a basis that is junior in lien to the Utility Bonds until the Utility Bonds are no longer “Outstanding” as such term is defined in the Master Bond Resolution.

Section 4. Official Statement. The preparation of the Preliminary Official Statement, in substantially the form now on file with the City Clerk, to be used in connection with the sale of the Series 2021 Obligations is hereby authorized and approved and its distribution by the Underwriter is hereby authorized and approved. The Preliminary Official Statement may be deemed “final” for all purposes of the Rule. The City will cause a final official statement (the “*Official Statement*”) in substantially the form of the Preliminary Official Statement but with insertions and omissions permitted by the Rule to be prepared and distributed with the Series 2021 Obligations in accordance with the Rule. The Mayor or the Deputy City Manager and Chief Financial Officer are each hereby authorized to approve, execute and deliver the Official Statement on behalf of the City and the execution by either such representative of the City shall be deemed conclusive evidence of such approval. If necessary, the Authorized Representatives are each hereby authorized and directed to execute and deliver, on behalf of the City, such certificates, documents or supplements pertaining to the accuracy of the Preliminary Official Statement and the Official Statement and any amendments thereto.

Section 5. Trustee. The City hereby appoints UMB Bank, n.a., as Trustee pursuant to the Trust Agreement and authorizes and directs the Trustee to take any and all action necessary in connection with the execution and delivery of the Installment Purchase Agreement, the Trust Agreement and the Purchase Contract, and the sale, execution and delivery of the Series 2021 Obligations and further authorizes and directs the Trustee to enter into such additional agreements as may be reasonable for the administration of the trusts so held. The City may appoint a successor trustee in accordance with the Trust Agreement, and, if the City desires to appoint another trustee prior the sale, execution and delivery of the Series 2021 Obligations, any such appointment may be done without further approval of the City Council.

Section 6. Resolution Irrepealable. After any of the Series 2021 Obligations are delivered by the Trustee to the Underwriter thereof upon receipt of payment therefor, this Resolution shall be and remain irrepealable until the Series 2021 Obligations and the interest and premium, if any, thereon shall have been fully paid, cancelled and discharged in accordance with the Trust Agreement.

Section 7. Ratification of Actions. All actions of the officers, officials, employees and agents of the City which conform to the purposes and intent of this Resolution and which further the sale, execution and delivery of the Series 2021 Obligations as contemplated by this Resolution whether heretofore or hereafter taken are hereby ratified, confirmed and approved. The proper officers, officials, employees and agents of the City are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent of this Resolution.

Section 8. Severability. Other than the limitations on the principal and interest amounts of the Series 2021 Obligations as set forth in Section 1(C) of this Resolution, if any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid, illegal or unenforceable, the invalidity, illegality or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining portions of this Resolution. The City Council hereby declares that it would have adopted this Resolution and each and every other section, paragraph, clause or provision hereof and authorized the sale, execution and delivery of the Series 2021 Obligations pursuant hereto irrespective of the fact that any one or more sections, paragraphs, clauses or provisions may be held to be invalid, illegal or unenforceable.

Section 9. Waiver of Inconsistency. All orders, resolutions and ordinances or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as reviving any order, resolution or ordinance or any part thereof.

[Signature Page to Follow]

PASSED AND ADOPTED by the City Council of the City of Mesa, Arizona,
this 19th day of April, 2021.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Sherman & Howard L.L.C., Special Counsel

CERTIFICATION

I, Dee Ann Mickelsen, the duly appointed City Clerk of the City of Mesa, Arizona, do hereby certify that the above and foregoing resolution was duly passed by the City Council of the City of Mesa, Arizona, at a regular meeting held on April 19, 2021, and that a quorum was present thereat and that the vote thereon was ____ ayes and ____ nays; ____ did not vote or were absent.

DATED: April 19, 2021.

City Clerk